

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ZELTIQ AESTHETICS, INC.,  
Plaintiff,  
v.  
BTL INDUSTRIES, INC., et al.,  
Defendants.

Case No. [13-cv-05473-JCS](#)

**ORDER GRANTING IN PART AND  
DENYING IN PART MOTIONS TO  
FILE UNDER SEAL**

Re: Dkt. Nos. 55, 59

Plaintiff Zeltiq Aesthetics, Inc. (“Zeltiq”) moves to file under seal its Motion for Partial Summary Judgment (“MSJ,” dkt. 55), its Reply in support of its MSJ (dkt. 59), and declaration exhibits submitted in support of its MSJ and Reply. Zeltiq’s only basis for filing under seal is that Defendants designated certain documents as confidential. Zeltiq therefore moved to file under seal pursuant to Civil Local Rule 79-5(e), and Defendants filed declarations in response pursuant to Civil Local Rule 79-5(e)(1).

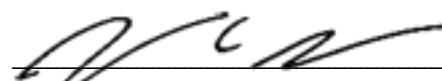
With respect to the MSJ, Zeltiq sought to file under seal Exhibits 1, 4–20, and 27 to the supporting declaration of Thomas Hanrahan. Defendants have no objection to Exhibits 1, 4, 5, 7, 8, 10–20, and 27 being filed in the public record. 1st Faucette Decl. (dkt. 57) ¶ 2. Zeltiq’s sealing motion is therefore DENIED as to those exhibits. Defendants support sealing two lines of Exhibit 6, consisting of excerpts of a deposition transcript, on the basis that they contain non-public pricing information. *Id.* ¶ 3. The Court has reviewed Exhibit 6 and finds that only one line—page 35, line 16—contains pricing information. (Line 15 consists of a generic question by Zeltiq’s attorney that is not subject to sealing.) Defendants also support sealing six lines of text following the number “4” on the first page of Exhibit 9, also to protect non-public pricing information. *Id.* ¶ 4. The Court has reviewed that exhibit and finds Defendants’ explanation sufficient. Zeltiq’s sealing motion is therefore GRANTED as to page 35, line 16 of Exhibit 6 and the six lines of text

following the number “4” on the first page of Exhibit 9, and DENIED as to the remainder of those exhibits. Defendants’ declaration does not discuss the MSJ itself. The Court has reviewed the MSJ and found no reference to the confidential pricing information from Exhibits 6 and 9. Zeltiq’s sealing motion is therefore DENIED as to the MSJ itself. **Zeltiq is instructed to file unredacted versions of the MSJ and Exhibits 1, 4, 5, 7, 8, 10–20, and 27, and redacted versions of Exhibits 6 and 9, no later than March 9, 2015.** *See* Civ. L.R. 79-5(f)(2), (3).

With respect to the Reply, Zeltiq sought to seal portions of the Reply itself, as well as Exhibits 29–37 and 49–46 to the Supplemental Declaration of Thomas Hanrahan. Defendants do not object to Exhibits 29, 31, 32, 34, 35, 39, 40–42, 44, and 46 being filed in the public record. 2d Faucette Decl. (dkt. 61) ¶ 2. Defendants also do not appear to object to Exhibit 36 being filed in the public record. *See id.* ¶ 5 (“Zeltiq filed Exhibit 36 under seal, but Defendants did not designate it as ‘Confidential.’”). Zeltiq’s sealing motion is therefore DENIED as to those exhibits. Exhibits 30, 33, and 37 contain non-public financial figures and telephone access information. *See id.* ¶¶ 3, 4, 6. Zeltiq’s sealing motion is GRANTED as to those exhibits. Exhibit 45 consists of excerpts of the same deposition transcript as Exhibit 6. For the same reasons applicable to Exhibit 6, Zeltiq’s sealing motion is GRANTED as to page 35, line 16, and DENIED as to the remainder of Exhibit 45. Defendants’ declaration does not discuss the Reply itself. The Court has reviewed the Reply and found no reference to the confidential financial data or telephone access information from the sealed exhibits. Zeltiq’s sealing motion is therefore DENIED as to the Reply itself. **Zeltiq is instructed to file unredacted versions of the Reply and Exhibits 29, 31, 32, 34–36, 39, 40–42, 44, and 46, and a redacted version of Exhibit 45, no later than March 9, 2015.** *See* Civ. L.R. 79-5(f)(2), (3).

**IT IS SO ORDERED.**

Dated: March 2, 2015

  
JOSEPH C. SPERO  
Chief Magistrate Judge